

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by Express Mail No.: EV 756259166 US to the Patent and Trademark Office, on the date shown below.

Filed: 11/9/06 Signature: Peter C. Lauro
(Peter C. Lauro)

Docket No.: 59911CON(49950)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Flavio Alterthum, *et al.*

Application No.: 09/620,060

Confirmation No.: 4257

Filed: July 21, 2000

Art Unit: 1634

For: RECOMBINANT CELLS THAT HIGHLY EXPRESS
CHROMOSOMALLY-INTEGRATED
HETEROLOGOUS GENES

Examiner: Gary Jones

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION FOR REVIEW OF PATENT TERM EXTENSION PURSUANT TO
37 C.F.R. §§ 1.181 AND 1.704(c)(8)**

Dear Sir:

This is a Petition for Review of Patent Term Extension under 37 C.F.R. §§ 1.181 and 1.704(c)(1)(8) to correct the Patent Term Extension for the above-referenced patent application. It is respectfully submitted that Patent Term Extension of zero (0) days accorded by the Patent Office to the above-referenced application is not correct.

Applicants respectfully request appropriate and equitable patent term extension, pursuant to 37 C.F.R. § 1.704(c)(8), as set forth below. Attached to this Petition as **Appendix A** is a copy of the Patent Term Extension History obtained from Private PAIR (the application was filed prior to November 29, 2000 and, therefore, was not published).

STATEMENT OF FACTS

1. The instant application was filed on July 21, 2000 and is a continuation of U.S. Application No. 09/134,403, filed August 14, 1998, issued as U.S. Patent 6,107,093, which is a continuation of U.S. Application No. 08/363,868, filed December 17, 1994, issued as U.S. Patent 5,821,093, which is a continuation-in-part of U.S. Application No. 08/013,658 filed

February 4, 1993, now abandoned, which is a continuation of 07/624,227, filed December 7, 1990, now abandoned, which is a continuation-in-part of 07/352,062, filed May 15, 1989, issued as U.S. Patent 5,000,000, which is a continuation-in-part of 07/239,099, filed August 31, 1988, now abandoned, and is a continuation-in-part of 07/946,290, filed September 17, 1992, issued as U.S. Patent 5,487,989.

2. An Amendment and Response to the Office Action dated March 14, 2002 was filed on June 24, 2002 (deposited in First Class mail on June 14, 2002). On July 22, 2002, Examiner A.K. Chakrabarti contacted the undersigned via telephone to advise that the claims were in condition for allowance but for an obviousness-type double patenting rejection that would be overcome by the filing of a Terminal Disclaimer. On the same day (July 22, 2002), the undersigned filed via facsimile a Terminal Disclaimer. Applicants and the undersigned expected to receive a Notice of Allowance in due course.

3. However, from July 22, 2002 until August 9, 2006, neither Applicants nor the undersigned received any further communication from the Patent Office, notwithstanding that the undersigned filed Status Inquiry letters and Notifications of Changes of Correspondence Address and Attorney Docket Number on July 30, 2004 (incorrectly logged in as filed on June 30, 2004 on the Image File History Log in Private PAIR), November 9, 2004, August 2, 2005, and July 14, 2006. The undersigned also filed a Revocation of Prior Power of Attorney with New Power of Attorney and Notification of Change of Correspondence Address on October 28, 2005. Although the aforementioned Status Inquiries and Notifications appear on the Image File History Log in Private PAIR, a copy of which is attached hereto as **Appendix B**, neither Applicants nor the undersigned received any response from the Patent Office.

4. In view of the lack of response from the Patent Office, assistant to the undersigned called the Patent Office on or about December 7, 2005 to inquire as to the status of the instant application, and learned that the application had gone abandoned for failure to reply to a Notice of Allowance dated August 15, 2002. Neither Applicants nor the undersigned ever received the Notice of Allowance or the Notice of Abandonment.

5. On or about December 13, 2005, the undersigned followed up with a call to the Patent Office and was referred to Examiner Gary Jones, who was extremely helpful. In fact, Applicants and the undersigned take this opportunity to thank Examiner Jones for his cordiality

and help in resolving the status of the instant application and correcting what turned out to be a significant error on the part of the Patent Office.

6. More specifically, Examiner Jones was able to determine that between June 24, 2002, when the undersigned filed the Amendment and Response referred to in paragraph 2 above, and August 15, 2002, the mailing date of the Notice of Allowance referred to in paragraph 4 above, a registered patent agent/attorney T. Ling Chwang (Reg. No. 33,590) of Jackson Walker LLP, Richardson, Texas, who was never an attorney of record in the instant application, filed a Revocation of Prior Powers of Attorney with New Powers of Attorney and Notification of Change of Correspondence Address on June 25, 2002 for Application Ser. No. 09/624,268, filed July 24, 2000 (the '268 application). Although the '268 application has no relationship whatsoever to the instant application, Applicants or the undersigned, the Patent Office erroneously entered the papers filed by T. Ling Chwang into the record of the instant application.

7. Consequently, all subsequent Office communications, including the Notice of Allowance and the Notice of Abandonment were sent to T. Ling Chwang at Jackson Walker LLP, Richardson, Texas. Moreover, the undersigned was never contacted by T. Ling Chwang. This series of events is reflected in the Image File History Log in Private PAIR as well as in the papers filed by T. Ling Chwang, the Notice of Allowance and the Notice of Abandonment, copies of which are attached hereto as **Appendix C**.

8. In view of the foregoing chain of events caused by the Patent Office's error, Examiner Jones advised the undersigned that the Notice of Abandonment would be withdrawn and a new Notice of Allowance, corrected to reflect the undersigned's correspondence address, would be issued forthwith. However, as of July 14, 2006, neither Applicants nor the undersigned still had not yet received the corrected Notice of Allowance.

9. Accordingly, and as is reflected in the Image File History Log in Private PAIR, Applicant filed a Status Inquiry letter on July 14, 2006. In early August 2006, the undersigned followed-up the Status Inquiry letter with a call to Examiner Jones to advise the Examiner that he had still not received the corrected Notice of Allowance. Examiner Jones indicated that the corrected Notice of Allowance was scheduled for mailing on August 9, 2006. The undersigned received the corrected Notice of Allowance, which indicates that a Patent Term Extension of zero (0) days has been accorded the instant application.

10. Applicants submit that the error of the Patent Office caused significant delay in the prosecution of the instant patent application as well as significant inconvenience and expense to Applicants. More importantly, the error of the Patent Office and ensuing delay caused by that error would significantly erode the term of the patent ultimately issuing from the instant application, without proper and equitable patent term adjustment.

RELIEF REQUESTED

The Patent Office error described above has delayed the grant of a patent from the instant application. Therefore, pursuant to 37 C.F.R. §1.702(a)(1), the term of an original patent shall be adjusted if the issuance of the patent was delayed due to failure of the Office to respond to a reply under 35 U.S.C. §132 not later than four months after the date on which the reply was filed. As set forth above, the undersigned filed a Terminal Disclaimer on July 22, 2002, which the Examiner had indicated during a telephone interview with the undersigned on even date would put the application in condition for allowance. Accordingly, the Office should have issued a reply (Notice of Allowance) by November 22, 2002. Because of the Patent Office error and ensuing delay, the Patent Office did not reply to Applicants until August 9, 2006, which is a delay of 1357 days, calculated from November 22, 2002 to August 9, 2006 (taking into account that 2004 was a leap year). The Patent Term Extension History obtained from Private PAIR (Appendix A) indicates Applicants' delay totaling 292 days. Therefore, Applicants respectfully request that that the term of the patent issuing from the instant application be extended by 1065 days, which is the difference between 1357 days of Patent Office delay and 292 days of Applicants' delay.

Alternatively, pursuant to 37 C.F.R. §1.702(b), the term of the patent issuing from the instant application shall be extended due to the failure of the office to issue a patent within three years of actual filing date; *i.e.*, by July 21, 2003, which is three (3) years from the filing date of the instant application. Although the exact grant date of the patent is not yet known, Applicants submit that the delay is at least 1,115 days, calculated from July 21, 2003 to August 9, 2006, the date of mailing of the corrected Notice of Allowance (taking into account that 2004 was a leap year). Therefore, Applicants respectfully request that that the term of the patent issuing from the


instant application be extended by at least 823 days, which is the difference between 1,115 days of Patent Office delay and 292 days of Applicants' delay.

Applicants submit that the instant Petition is being filed promptly with payment of the issue fee, on November 9, 2006. Accordingly, the instant Petition is considered timely filed.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 59911CON(49950). A duplicate copy of this paper is enclosed.

Dated: November 9, 2006

Respectfully submitted,

By 

Peter C. Lauro, Esq.

Registration No.: 32,360

EDWARDS ANGELL PALMER & DODGE LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 439-4444

Attorneys/Agents For Applicants



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz Alerts | News | Help

Portal Home | Patents | Trademarks | Other | Sign-Off Authenticated Session

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Secured Patent Application Information Retrieval

Order Certified Application As Filed Order Certified File Wrapper View Order List

09/620,060 RECOMBINANT CELLS THAT HIGHLY EXPRESS CHROMOSOMALLY-INTEGRATED HETEROLOGOUS GENES

Select New Case

Application Data

Transaction History

Image File Wrapper

Patent Term Adjustments

Continuity Data

Address & Attorney/Agent

Assignments

Publication Review

Patent Term Adjustment

| | | | |
|------------------------------|------------|--------------------------------------|-----|
| Filing or 371(c) Date: | 07-21-2000 | USPTO Delay (PTO) Delay (days): | 0 |
| Issue Date of Patent: | null | Three Years: | - |
| Pre-Issue Petitions (days): | +0 | Applicant Delay (APPL) Delay (days): | 292 |
| Post-Issue Petitions (days): | +0 | Total Patent Term Adjustment (days): | 0 |
| USPTO Adjustment(days): | +0 | Explanation Of Calculations | |

Patent Term Adjustment History

| Date | Contents Description | PTO(Days) | APPL(Days) |
|------------|---------------------------------------|-----------|------------|
| 08-09-2006 | Mail Corrected Notice of Allowance | | |
| 08-03-2006 | Correspondence Address Change | | |
| 05-23-2006 | Receipt into Pubs | | |
| 05-03-2006 | Workflow - File Sent to Contractor | | |
| 12-13-2005 | Corrected Notice of Allowance | | |
| 12-13-2005 | Withdraw Publication/Pre-Exam Abandon | | |
| 12-13-2005 | Case Docketed to Examiner in GAU | | |
| 11-01-2005 | Correspondence Address Change | | |
| 08-01-2005 | Miscellaneous Incoming Letter | | |
| 11-09-2004 | Miscellaneous Incoming Letter | | |
| 08-18-2004 | Correspondence Address Change | | |

Other

- Copyrights
- Trademarks
- Policy & Law
- Reports

BEST AVAILABLE COPY

| | | |
|------------|---|------|
| 12-26-2002 | Mail Abandonment for Failure to Pay Issue Fee | |
| 12-26-2002 | Abandonment for Failure to Pay Issue Fee | |
| 07-21-2000 | Workflow - Drawings Finished | |
| 07-21-2000 | Workflow - Drawings Matched with File at Contractor | |
| 10-14-2002 | Receipt into Pubs | |
| 08-16-2002 | Workflow - File Sent to Contractor | |
| 08-16-2002 | Workflow - File Sent to Contractor | |
| 08-16-2002 | Receipt into Pubs | |
| 08-15-2002 | Dispatch to Publications | |
| 08-15-2002 | Mail Notice of Allowance | |
| 08-15-2002 | Mail Notification of Terminal Disclaimer - Accepted | |
| 08-14-2002 | Notice of Allowance Data Verification Completed | |
| 07-22-2002 | Notification of Terminal Disclaimer - Accepted | |
| 07-22-2002 | Terminal Disclaimer Filed | 28 ✓ |
| 07-11-2002 | X-Pre-Legal Complete Amended Case | ↑ |
| 07-11-2002 | Date Forwarded to Examiner | ↑ |
| 06-24-2002 | Response after Non-Final Action | 10 ✓ |
| 07-11-2002 | Correspondence Address Change | ↑ |
| 07-11-2002 | Change in Power of Attorney (May Include Associate POA) | ↑ |
| 04-27-2001 | Payment of additional filing fee/Preexam | 121 |
| 03-19-2002 | X-Pre-Legal Complete Amended Case | ↑ |
| 03-01-2002 | Information Disclosure Statement (IDS) Filed | 17 |
| 03-14-2002 | Mail Non-Final Rejection | ↑ |
| 03-13-2002 | X-Post-Legal Complete Rejection | ↑ |
| 03-13-2002 | Non-Final Rejection | ↑ |
| 02-28-2002 | Date Forwarded to Examiner | ↑ |
| 02-12-2002 | Response to Election / Restriction Filed | 116 |
| 02-12-2002 | Request for Extension of Time - Granted | ↑ |
| 02-07-2002 | Case Docketed to Examiner in GAU | ↑ |

BEST AVAILABLE COPY

| | | |
|------------|---|---|
| 07-19-2001 | Case Docketed to Examiner in GAU | ↑ |
| 07-19-2001 | Mail Restriction Requirement | ↑ |
| 07-19-2001 | Requirement for Restriction / Election | |
| 07-16-2001 | Case Docketed to Examiner in GAU | |
| 05-18-2001 | Case Docketed to Examiner in GAU | |
| 05-15-2001 | Application Dispatched from OIPE | |
| 05-11-2001 | Application Is Now Complete | |
| 05-11-2001 | Correspondence Address Change | |
| 09-27-2000 | Notice Mailed--Application Incomplete--Filing Date Assigned | |
| 09-20-2000 | Correspondence Address Change | |
| 08-09-2000 | IFW Scan & PACR Auto Security Review | |
| 07-21-2000 | Initial Exam Team nn | |

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC).*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic.Business.Support or call 1 800-786-9199.*

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the webmaster@uspto.gov. While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

[Home](#) | [Site Index](#) | [Search](#) | [eBusiness](#) | [Help](#) | [Privacy Policy](#)



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz Alerts | News | Help

| | | | | |
|-------------|---------|------------|-------|--------------------------------|
| Portal Home | Patents | Trademarks | Other | Sign-Off Authenticated Session |
|-------------|---------|------------|-------|--------------------------------|

Patent eBusiness

Electronic Filing

Patent Application Information (PAIR)

Patent Ownership

Fees

Supplemental Resources & Support

Secured Patent Application Information Retrieval

Order Certified Application As Filed

Order Certified File Wrapper

View O

09/620,060 RECOMBINANT CELLS THAT HIGHLY EXPRESS CHROMOSOMALLY-INTEGRATED HETEROLOGOUS GENES

| | | | | | | | | |
|-----------------|------------------|---------------------|--------------------|-------------------------|-----------------|--------------------------|-------------|--------------------|
| Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data | Address & Attorney/Agent | Assignments | Publication Review |
|-----------------|------------------|---------------------|--------------------|-------------------------|-----------------|--------------------------|-------------|--------------------|

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download: Check the desired document(s) and click Start Download.

Available Documents

| Mail Room | Date | Description | Document | Document Category | Page Count | Select All | Start Download |
|------------|------|--|----------|-------------------|------------|------------|----------------|
| 10-03-2006 | | Status Letter Mailed to Applicant | | PROSECUTION | 5 | | |
| 08-09-2006 | | Notice of Allowance and Fees Due (PTOL-85) | | PROSECUTION | 3 | | |
| 08-04-2006 | | Notice of Change of Address placed in File Wrapper due to EBC Customer Number update | | PROSECUTION | 1 | | |
| 07-14-2006 | | Request for status of Application | | PROSECUTION | 4 | | |
| 06-23-2006 | | Bibliographic Data Sheet | | PROSECUTION | 1 | | |
| 10-28-2005 | | Power of Attorney | | PROSECUTION | 5 | | |
| 08-01-2005 | | Miscellaneous Incoming Letter | | PROSECUTION | 5 | | |
| 08-01-2005 | | Change of Address | | PROSECUTION | 1 | | |
| 08-01-2005 | | Change of Address | | PROSECUTION | 1 | | |
| 08-01-2005 | | Miscellaneous Incoming Letter | | PROSECUTION | 5 | | |

Patent Searches

- Patent Official Gazette
- Search Patents & Applications
- Search Biological Sequences
- Copies, Products & Services

Other

- Copyrights
- Trademarks
- Policy & Law
- Reports

| | | | | |
|------------|---|-------------|----|--------------------------|
| 11-09-2004 | <u>Change of Address</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 11-09-2004 | <u>Miscellaneous Incoming Letter</u> | PROSECUTION | 3 | <input type="checkbox"/> |
| 06-30-2004 | <u>Change of Address</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 06-30-2004 | <u>Miscellaneous Incoming Letter</u> | PROSECUTION | 3 | <input type="checkbox"/> |
| 12-26-2002 | <u>Abandonment</u> | PROSECUTION | 2 | <input type="checkbox"/> |
| 08-21-2002 | <u>Miscellaneous Incoming Letter</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 08-15-2002 | <u>Notice of Allowance and Fees Due (PTOL-85)</u> | PROSECUTION | 11 | <input type="checkbox"/> |
| 08-15-2002 | <u>List of References cited by applicant and considered by examiner</u> | PROSECUTION | 5 | <input type="checkbox"/> |
| 07-22-2002 | <u>Miscellaneous Incoming Letter</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-22-2002 | <u>Terminal Disclaimer Filed</u> | PROSECUTION | 2 | <input type="checkbox"/> |
| 07-11-2002 | <u>Miscellaneous Action with SSP</u> | PROSECUTION | 2 | <input type="checkbox"/> |
| 06-25-2002 | <u>Power of Attorney</u> | PROSECUTION | 3 | <input type="checkbox"/> |
| 06-25-2002 | <u>Miscellaneous Incoming Letter</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 06-24-2002 | <u>Amendment - After Non-Final Rejection</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 06-24-2002 | <u>Specification</u> | PROSECUTION | 2 | <input type="checkbox"/> |
| 06-24-2002 | <u>Claims</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 06-24-2002 | <u>Applicant Arguments/Remarks Made in an Amendment</u> | PROSECUTION | 4 | <input type="checkbox"/> |
| 06-24-2002 | <u>Appendix to the Specification</u> | PROSECUTION | 4 | <input type="checkbox"/> |
| 06-24-2002 | <u>Appendix to the Specification</u> | PROSECUTION | 6 | <input type="checkbox"/> |
| 06-24-2002 | <u>Miscellaneous Incoming Letter</u> | PROSECUTION | 4 | <input type="checkbox"/> |

BEST AVAILABLE COPY

| | | | | |
|------------|--|-------------|----|--------------------------|
| 03-14-2002 | <u>Non-Final Rejection</u> | PROSECUTION | 6 | <input type="checkbox"/> |
| 03-04-2002 | <u>Examiner's search strategy and results Information</u> | PROSECUTION | 3 | <input type="checkbox"/> |
| 03-01-2002 | <u>Disclosure Statement (IDS) Filed</u> | PROSECUTION | 3 | <input type="checkbox"/> |
| 02-12-2002 | <u>Amendment - After Non-Final Rejection</u> | PROSECUTION | 4 | <input type="checkbox"/> |
| 02-12-2002 | <u>Extension of Time</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 02-12-2002 | <u>Miscellaneous Incoming Letter</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-19-2001 | <u>Requirement for Restriction/Election</u> | PROSECUTION | 4 | <input type="checkbox"/> |
| 04-27-2001 | <u>Applicant Response to Pre-Exam Formalities Notice</u> | PROSECUTION | 4 | <input type="checkbox"/> |
| 04-27-2001 | <u>Extension of Time</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 09-27-2000 | <u>Pre-Exam Formalities Notice</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-21-2000 | <u>Issue Information including classification, examiner, name, claim, renumbering, etc.</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-21-2000 | <u>Search information including classification, databases and other search related notes</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-21-2000 | <u>Index of Claims</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-21-2000 | <u>Transmittal of New Application</u> | PROSECUTION | 3 | <input type="checkbox"/> |
| 07-21-2000 | <u>Drawings</u> | PROSECUTION | 8 | <input type="checkbox"/> |
| 07-21-2000 | <u>Specification</u> | PROSECUTION | 55 | <input type="checkbox"/> |
| 07-21-2000 | <u>Claims</u> | PROSECUTION | 12 | <input type="checkbox"/> |
| 07-21-2000 | <u>Abstract</u> | PROSECUTION | 1 | <input type="checkbox"/> |
| | <u>Oath or Declaration</u> | | | |

BEST AVAILABLE COPY

| | | | | |
|------------|--|-------------|----|--------------------------|
| 07-21-2000 | filed | PROSECUTION | 12 | <input type="checkbox"/> |
| 07-21-2000 | Bibliographic Data Sheet | PROSECUTION | 4 | <input type="checkbox"/> |
| 07-21-2000 | Fee Worksheet (PTO-875) | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-21-2000 | Amendment - After Non-Final Rejection | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-21-2000 | Specification | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-21-2000 | Applicant Arguments/Remarks Made in an Amendment | PROSECUTION | 1 | <input type="checkbox"/> |
| 07-21-2000 | Miscellaneous Incoming Letter | AS FILED | 93 | <input type="checkbox"/> |

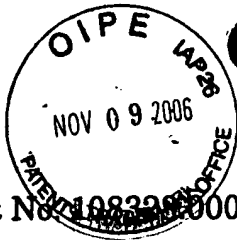
If you need help:

- [Call the Patent Electronic Business Center at \(866\) 217-9197 \(toll free\) or e-mail \[EBC@uspto.gov\]\(mailto:EBC@uspto.gov\) for specific about Patent Application Information Retrieval \(PAIR\).](#)
- [Send general questions about USPTO programs to the \[USPTO Contact Center \\(UCC\\)\]\(#\).](#)
- [If you experience technical difficulties or problems with this application, please report them via e-mail to \[EleBusiness Support\]\(#\) or call 1 800-786-9199.](#)

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the webmaster@uspto.gov. While we cannot promise to accommodate all suggestions will be considered and may lead to other improvements on the website.

[Home](#) | [Site Index](#) | [Search](#) | [eBusiness](#) | [Help](#) | [Privacy Policy](#)

BEST AVAILABLE COPY



COPY OF PAPERS
ORIGINALLY FILED

Docket No. 19832930029

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

7-11-02

Applicant: Robert J. Schwartz, et al.

Serial No.: 09/624,268

Filing Date: July 24, 2000

Group Art Unit: 1632

Examiner: Peter Paras, Jr.

For: SUPER-ACTIVE PORCINE GROWTH HORMONE RELEASING
HORMONE ANALOG

RECEIVED
JUN 28 2002
TECH CENTER 1600/2900

**REVOCATION OF PRIOR POWERS OF ATTORNEY AND
APPOINTMENT OF NEW ATTORNEYS**

Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the
U.S. Postal Service with sufficient postage as First Class Mail in an
envelope addressed to: Commissioner for Patents, Washington, D.C.
20231 on

Dear Sir:

As assignee of record of the entire interest of the above-identified patent application, all powers of attorney previously given are hereby revoked and the following attorneys are hereby appointed to prosecute and transact all business in the Patent and Trademark Office connected therewith.

| | |
|-------------------|-----------------|
| T. Ling Chwang | Reg. No. 33,590 |
| Scott B. Stahl | Reg. No. 33,795 |
| Robert C. Klinger | Reg. No. 34,365 |
| Bobby D. Slaton | Reg. No. 43,130 |

Docket No. 108328.00029

John D. Kaufmann

Reg. No. 24,017

Please direct all correspondence and telephone calls to the following:

T. Ling Chwang
Jackson Walker L.L.P.
2435 N. Central Expressway
Suite 600
Richardson, Texas 75080
Telephone: 972-744-2919
Facsimile: 972-744-2909

A Statement under 37 C.F.R. 3.73(b) is enclosed.

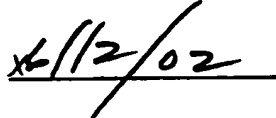
Baylor College of Medicine
Assignee of Entire Interest

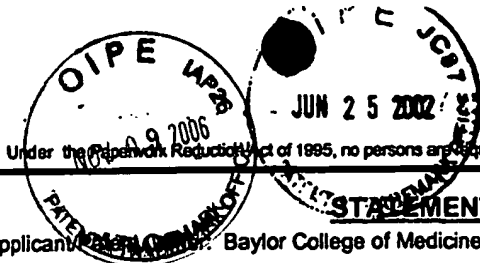
By 

Name: W. Dalton Tomlin
Title: Senior Vice President
and General Counsel

Address:

Texas Medical Center
One Baylor Plaza
Houston, Texas 77030

Date: 



STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Assignor: Baylor College of Medicine

Application No./Patent No.: 09/624,268 Filed/Issue Date: July 24, 2000

**COPY OF PAPERS
ORIGINALLY FILED**

Entitled: SUPER-ACTIVE PORCINE GROWTH HORMONE RELEASING HORMONE ANALOG

Baylor College of Medicine a non-profit corporation

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the Patent and Trademark Office at Reel 011296 Frame 0725, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.8]

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

x 6/12/02
Date

x W. Dalton Tomlin
Signature

W. Dalton Tomlin
Typed or printed name
Senior Vice President and General
Counsel
Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

3162432v1

BEST AVAILABLE COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590
T. Ling Chwang
Jackson Walker L.L.P.
2435 N. Central Expressway,
Suite 600
Richardson, TX 75080



| | |
|---------------------|----------------|
| EXAMINER | |
| CHAKRABARTI, ARUN K | |
| ART UNIT | CLASS-SUBCLASS |
| 1634 | 435-440000 |

DATE MAILED: 08/15/2002

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|------------------------------|------------------|
| 09/620,060 | 07/21/2000 | Lonnie O. Ingram | BCI-0092CCPCN2 (UF REF NO | 4257 |

TITLE OF INVENTION: RECOMBINANT CELLS THAT HIGHLY EXPRESS CHROMOSOMALLY-INTEGRATED HETEROLOGOUS GENES

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE | PUBLICATION FEE | TOTAL FEE(S) DUE | DATE DUE |
|----------------|--------------|-----------|-----------------|------------------|------------|
| nonprovisional | YES | \$640 | \$0 | \$640 | 11/15/2002 |

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above. If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

B. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|------------------------------|------------------|
| 09/620,060 | 07/27/2000 | Lonnie O. Ingram | BCI-0092CCPCN2 (UF REF NO | 4257 |

7590

12/26/2002

T. Ling Chwang
Jackson Walker L.L.P.
2435 N. Central Expressway,
Suite 600
Richardson,, TX 75080

EXAMINER

CHAKRABARTI, ARUN K

ART UNIT

PAPER NUMBER

1634

DATE MAILED: 12/26/2002

P#16

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| | | | |
|--------------------|-------------|-----------------------|---------------------|
| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
|--------------------|-------------|-----------------------|---------------------|

09/620,000

| |
|----------|
| EXAMINER |
|----------|

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

PH 66

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper response to the Office letter mailed on _____.
- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.
(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).)
- ☐ No response has been received.
- ☒ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.
 - ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
 - ☐ The submitted issue fee of \$_____ is insufficient. The issue fee required by 37 CFR 1.18 is \$_____.
 - ☒ The issue fee has not been received.
- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.
 - ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
 - ☐ The proposed new formal drawings filed _____ are not acceptable.
 - ☐ No proposed new formal drawings have been received.
- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

**ABANDONMENT
CONTACT PERSON IS:
TOM HAWKINS
305-8380**